Executive Director's Update
Incorporating Act 743 in Local Policy – a Problem?

ATRS has received information that certain school districts are considering adoption of retirement separation policies due to the passage of Act 743 of 2009, which is also known as SB165. Act 743 is very complicated and has several different separation periods that apply due to language in Act 743 and existing ATRS law.

ATRS has been given information that at least one school district's draft policy may not comply with the ATRS separation requirements. In the event of a conflict between a school district's policy and ATRS policy, then ATRS will apply and enforce ATRS policy. If a retiring member does not comply with ATRS' separation policy, even if the separation follows a school district's policy, ATRS will be required to recoup all retirement benefits paid, including return of any T-Drop distribution with accrued interest from the member. Members could lose **thousands of dollars** in a short amount of time by making a separation mistake due to an inaccurate local policy.

A school district's adoption of a retirement separation policy that is incorrect and relied upon by a member who must repay thousands of dollars in benefits to ATRS will be problematic. ATRS does not have the right to prohibit school districts from adopting policies related to Act 743. ATRS neither encourages nor discourages the adoption of any retirement policy by a school district.

Apparently, at least one misinterpretation of Act 743 is that no separation is required if a member has **either** 38 years of service or has reached age 65. The **180 day separation** requirement in Act 743 does not apply to members with 38 years of service. However, a shorter **30 day separation** requirement continues to apply for members with 38 year of service unless the member has reached 65 years of age. For vested members who are 65 years of age or older, no separation period applies, regardless of the years of service. **The bottom line is that all members who are not 65 have a separation period.**

Below is a restatement from a previous executive director update that outlines the various separation periods that apply to various members due to the passage of Act 743 and existing ATRS law:

"Under this act, separation from covered employment transitions from 30 days to a 180-day wait period before returning to work for an ATRS covered employer. This does not mean the retiree does not get a retirement benefit payment for 180 days, it means the retiree is not considered retired if he or she returns to work in a position covered by ATRS within 180 days from the effective date of retirement.

Exceptions apply if:

1) **The member is over age 65, in which case, NO separation is required.**

2) The retiree has any combination of at least 38 or more years of the credit types listed below, now or any time in the future. Under this provision, a 30 day separation is required:

a) Credited service;
b) Participation in the T-DROP plan;
c) Reciprocal service credit.

3) The member retires on or before July 1, 2009, in which case a 30 day separation is required, regardless of the amount of service credit."

ATRS understands Act 743 is a major change in policy with complicated interacting provisions, including separation from service changes, earnings limitation repeal, employer contribution changes, and IRS compliance provisions. ATRS attempted to give members several options while at the same time ensuring compliance with federal law. The various options have the effect of changing the separation periods based upon 1) date of retirement, 2) years of service of the member, and 3) age of the member. If your district is considering adoption of a policy concerning Act 743, then ATRS strongly encourages you consider whether adopting a policy is in your district's best interest.

Respectfully,

George Hopkins